

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JAMAL PATTERSON,)	
)	
Plaintiff ,)	
)	
v.)	2:09-CV-2342-WMA-JEO
)	
OFFICERS SUTTON, GARY, McDONALD)	
and J. SHAREITT,)	
)	
Defendants.)	

MEMORANDUM OF OPINION

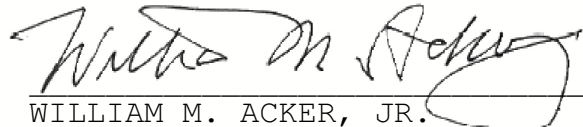
The magistrate judge filed a report and recommendation on February 18, 2010, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. The plaintiff filed objections to the report and recommendation on May 11, 2010.

The plaintiff argues that the defendants should be held responsible for the injuries he suffered because they failed to follow a prison regulation which states who is allowed out of their cell during pill call for diabetics. The inmates who injured the plaintiff were not diabetic, but were out of their cell during the pill call for diabetics. The plaintiff's complaint that the defendants failed to follow a prison rule or procedure fails to state a constitutional claim. The mere fact that agency regulations or procedures have been violated does not by itself raise a constitutional issue. *United States v. Caceres*, 440 U.S. 741, 99 S.Ct. 1465, 59 L.Ed.2d 733 (1979).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the

magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. A Final Judgment will be entered.

DATED this 18th day of May, 2010.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE